## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL ACTION NO. 3:21-CV-00610-FDW-DSC

TIGRESS SYDNEY ACUTE	)	
MCDANIEL,	)	
Plaintiff,	)	
v.	)	<u>ORDER</u>
LIBERTY MUTUAL INSURANCE COMPANY et. al.,	)	
Defendants.	)	

**THIS MATTER** is before the Court on Defendants' "Motion[s] to Dismiss..." (documents ##9 and 13), pro se Plaintiff's "Motion[s] for Leave to File Sur-reply ..." (documents ##35 and 36) and "Motion for Leave of Court to Amend Original Complaint" (document #38).

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to "amend its pleading once as a matter of course," if done within twenty-one days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or "if the pleading is one to which a responsive pleading is required," a party may amend once as a matter of course, provided that it does so within "21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1)(B). The Rule further provides that leave to amend shall be freely given "when justice so requires." <u>Id.</u>

Applying these principles, Plaintiff's Motion for Leave to Amend is granted.

It is well settled that an amended pleading supersedes the original pleading and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier,

238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); <u>Turner v. Kight</u>, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

## IT IS THEREFORE ORDERED that:

- 1. Plaintiff's "Motion for Leave of Court to Amend Original Complaint" (document #38) is **GRANTED**. Plaintiff shall file her amended complaint within fifteen days of this Order.
- 2. Defendants' "Motion[s] to Dismiss..." (documents ##9 and 13) are administratively **DENIED** as moot without prejudice.
- 3. Plaintiff's "Motion[s] for Leave to File Sur-reply ..." (documents ##35 and 36) are **DENIED** as moot.
- 4. The Clerk is directed to send copies of this Order to pro se Plaintiff, counsel for Defendants and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: February 22, 2022

David S. Cayer

United States Magistrate Judge